IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

Crl.MC.No. 604 of 2007()

CP.49/2006 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE

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PETITIONER: PETITIONER/ACCUSED NO.18

CHANDRAN NAIR.A.V.,
S/O.DAMODARAN NAIR.,
ANIYAM VEETTIL HOUSE,
PADINJATTUM MURI AMSOM, KIRALUR DESOM.,
KAKKODI, KOZHIKODE.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA,
THORUGH THE SUB INSPECTOR OF POLICE,
CHEVAYOOR POLICE STATION,
REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.604 of 2007

Dated this the 6th day of March, 2007

ORDER

The petitioner is accused No.18 in C.P.49 of 2006, where he faces allegations, inter alia, under Section 309 read with 149 I.P.C and Section 3(1) of the PDPP Act. The alleged incident had taken place in 2003. After investigation, final report was filed. Cognizance was taken. According to the petitioner, he had no knowledge about the initiation of prosecution against him. On the ground that the petitioner has not entered appearance, the learned Magistrate has issued a non bailable warrant to procure the presence of the petitioner. The petitioner hence finds the said warrant of arrest chasing him. The petitioner is willing to surrender before the learned Magistrate. All the co-accused have already entered appearance and they have been enlarged on bail. But the petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. The petitioner, in these circumstances, prays that directions under Section 482 Cr.P.C may be issued to the learned Magistrate to release him on bail on the date of surrender itself.

2. I am not satisfied that powers under Section 482 Cr.P.C can or need be invoked. It is for the petitioner to appear before the

learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless compelling and exceptional reasons are there.

H/O.

(R.BASANT, JUDGE)

rtr/-